

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF WESTCHESTER

**BDRN, LLC, BDRN PHARMACY, LLC, and JOHN DOE,**

*Plaintiffs,*

*-against-*

**AFFIDAVIT OF  
JOHN DOE**

Index No.

**UNITEDHEALTHCARE OF NEW YORK, INC.,  
UNITEDHEALTHCARE INSURANCE COMPANY OF NEW  
YORK, and OPTUMRX, INC.**

*Defendants.*

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

JOHN DOE, being duly sworn, deposes and says:

1. I am a plaintiff in this action, and I am appearing under the moniker of John Doe, not my real name, in order to protect my privacy.

2. I was born with severe factor VIII deficiency (hemophilia A). Because of my illness, I do not clot like a normal person, and I am susceptible to spontaneous bleeds into my joints and other areas of my body. If these bleeds are not treated as prescribed, they can become limb or life threatening. When a joint suddenly swells with blood because of an injury, at times I am unable to walk.

3. Because of this condition, it is imperative that I have reliable access to my clotting factor medication.

4. When the health insurance through my employer was switched over to United Healthcare in 2013, I began using BDRN Pharmacy in Walden, New York. I found BDRN to be very responsive to my

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medical needs and extremely knowledgeable about my condition. Whenever I had any questions, it was easy to get a reliable answer from their staff, who knew me by name.

5. BDRN not only supplied my factor, they also supplied ancillary supplies such as syringes, alcohol pads, swabs, knee braces, bandages and ice packs. BDRN also supplied coolers to store my factor in when traveling, because the factor must be kept cool or else it will lose its efficacy.

6. BDRN also once supplied me with a small refrigerator to store the factor in. My understanding is that the price of a small refrigerator is a good investment, as it costs less than a single dose of my medication, which can be ruined if it gets too warm.

7. BDRN also made it easy to get my medications conveniently, when I needed them. They delivered the factor and ancillary supplies to my home via personal delivery with their own staff at the time and date specified by me or my wife.

8. About a year ago I was experiencing a knee bleed and was getting low on my factor (only five doses left) and ancillary supplies. I placed an order with BDRN. To my surprise, BDRN informed me that they had received a denial from United and that I needed to call the number on the back of my ID card for assistance in locating a Specialty Designated Pharmacy. I did that and was informed that I had to use OptumRx, United's designated specialty pharmacy.

9. I contacted OptumRx and was told that they would ship my medication by UPS. That presents several severe difficulties for me and my family.

10. First is the need to have someone home when OptumRx sends my medications by UPS. We live in Westchester County, I work full time in Orange County, and my wife is a full time college student taking classes in New Rochelle and the Bronx. We also have a small child. Needless to say, it was difficult enough to juggle our schedules before, and now we have the added complication of making sure someone is home to pick up and sign for the UPS package from OptumRx.

11. I do not want UPS to drop off the package when nobody is home, because we live in a small walkup apartment house where there are three other families in the building and the common area is not secure.

12. Due to privacy issues and the size of the package (sometimes two huge boxes that need to be refrigerated), I prefer not to have the package sent to my work address.

13. We are also worse off from mandatory mail order also because OptumRx refuses to pick up the medical waste that results from the use of their drugs and supplies. The BDRN drivers not only delivered the medications and supplies, they also took away the wasted to be disposed of properly. In contrast, OptumRx sends me “mail-away sharps” that have huge bio-waste signs all over them. I have to personally take them to the post office to have them shipped for destruction, which is another privacy issue for me.

14. I also find United and OptumRx unreliable and difficult to deal with on the phone. A few months ago I called OptumRx when I was getting low on my medications. It is not always easy for hemophiliacs to predict how often we will need to refill our medications, because our use of clotting factor fluctuates from month to month and week to week depending on the severity of our condition. When I called OptumRx and said I needed more clotting factor as soon as possible, they said they would verify my prescription and call me back within an hour. In actuality, they did not get back to me for another two or three days.

15. Another time, after I returned BDRN’s loaner refrigerator to BDRN, I asked OptumRx if they would provide me with one. OptumRx did not, and instead suggested that I store the clotting factor on my back porch, since it was winter time. Clearly that was not a reasonable suggestion because the factor is temperature sensitive and very expensive.

16. In August when I placed an order with OptumRx, I was not going to be home to receive the medication, so I asked OptumRx to arrange to have it delivered to my mother’s home in Pelham, New York

at a designated time. My mother had to leave, and the package had not yet arrived by the designated time. I called OptumRx and was told that the medication had already been delivered by UPS. I called my mother back and told her that the medication supposedly had been delivered. She went outside and saw the UPS driver leaving and the package of medication left outside without a signature. Had she not called him back and signed for it, the package would have been left outside unsecured.

17. More recently OptumRx delayed another shipment. On December 23, we were expecting a shipment to arrive via UPS around 10am. My wife stayed home to wait for the delivery. When it did not arrive by 11am, I called OptumRx to find out what was happening. Unfortunately, OptumRx said they did not know and would have to get back to me. Several more hours went by before OptumRx called and said there was a delay with UPS and we would not receive the shipment until the following day, Christmas Eve. That was a concern to me because we were down to a single dose. I was worried because I typically take one dose per day over three consecutive days whenever I have a major bleed. I also take a dose as a precaution if I know I will be a long way from home without access to my medication or if I plan to have a particularly active day, such as when I play with our child at the park. With the delay in the shipment and being down to one dose, we were forced to preserve the last dose we had on hand.

18. The next day, December 24th, we waited for the shipment to arrive. It had not arrived by noon, and UPS said it was still on one of its trucks. I called OptumRx, but they said there was nothing they could do and just gave me the phone number for UPS and said to handle it myself. The shipment finally arrived around 2pm. By that time I had to change plans I had made in order to wait for the delivery.

19. That delay, on top of the incident in August, was the last straw, as it was very stressful for me and my family. I do not like to put my mother in the situation of having to track down my medications, and I do not like the stress of not knowing if the medications I need will be delivered when I need them.

20. For all of these reasons, my choice is to use BDRN as the pharmacy for my hemophilia

medications and supplies. I thought that New York's anti mandatory mail order law enabled me to do that.

21. I ask the Court to order United to comply with the law and once again allow BDRN to provide the excellent service that they have always offered me and my family.

\_\_\_\_\_/s John Doe

JOHN DOE

Subscribed and sworn to before me

this 16th day of January, 2015

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public, State of New York  
Qualified in Westchester County  
Commission Expires Feb. 13, 2018

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